

October 8, 2021

TO: ALL SCHOOL DISTRICTS, COUNTY SUPERINTENDENTS AND OTHER INTERESTED PARTIES

## TITLE 2. STATE ALLOCATION BOARD

### NOTICE OF PROPOSED EMERGENCY REGULATORY ACTION

In accordance with Assembly Bill 1302, Chapter 713, Statutes of 2006, enclosed are proposed emergency regulations adopted by the State Allocation Board (SAB) at its meeting on September 22, 2021. The proposed regulatory amendments and the Finding of Emergency are attached to this Notice. These documents can also be accessed on the Office of Public School Construction's (OPSC) website at:

<https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations>.

### INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

At its meeting on September 22, 2021, the SAB adopted proposed regulatory amendments on an emergency basis that would allow it to waive the priority funding request deadlines for projects that are impacted by proceeds from funding sources other than bond funds that become available unexpectedly. Projects for which the priority funding request deadline is waived are still subject to the other provisions of the priority funding process, including the 90-day apportionments and occurrences of non-participation.

Assembly Bill 130, Chapter 44, Statutes of 2021 [Committee on Budget. Education Finance: Education Omnibus Budget Trailer Bill] was signed by the Governor on July 9, 2021 and included a one-time General Fund appropriation in the amount of \$250 million. The SAB has been charged with allocating the one-time General Fund appropriation to eligible new construction and modernization projects until June 30, 2022. In order to maintain the integrity and concepts of the Priority Funding Process and to align future unexpected funding sources with the current structure of the Priority Funding Process, it is necessary to set forth how that allocation process will work.

The one-time \$250 million General Fund appropriation is an opportunity for cash to be allocated quicker than expected to the first \$250 million in projects on the Unfunded List (Lack of AB 55 Loans) and well before the statutory June 30, 2022 deadline. Additionally, OPSC will ask school districts with projects currently being processed if they wish to receive funding sooner than the Fall 2022 Bond sale thereby requiring those school districts to submit a request outside the typical Priority Funding Process.

As noted in the introductory paragraph above, the Finding of Emergency and proposed regulatory amendments are attached to this Notice. These documents may be viewed on OPSC's website at: <https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations>. Copies of the proposed regulatory amendments and Finding of Emergency will be mailed to any person requesting this information by using the OPSC contact information set forth below. The proposed regulatory

amendments implement the ability for the SAB to allocate the one-time General Fund appropriation while maintaining the integrity of the SFP and equity amongst school district projects.

OPSC, on behalf of the SAB, intends to submit the emergency regulations to the Office of Administrative Law (OAL) in October 2021. The following is an overview of the proposed regulatory amendments.

### Summary of the Proposed Regulations

A summary of the proposed regulatory amendments are as follows:

Existing Regulation Section 1859.90.2 authorizes the SAB to establish 30-calendar day certification filing periods to distribute available State school bond funding to school districts that request to convert an unfunded approval to an apportionment. School districts must submit and have in the possession of the OPSC the original signature Form SAB 50-05, "Fund Release Authorization," within 90 calendar days of the Board's approval of the apportionment; failure to make this submittal within 90 calendar days will result in rescission of the project without further Board action. (For the purposes of this Section, the word "rescission" means the apportionment returns to an unfunded approval status with a new unfunded approval date. The district will not be required to re-submit the application and no further application review will be required.) School districts wishing to participate must provide a written statement signed by an authorized district representative within the 30-calendar day filing period that contains all the following:

- Request to convert the unfunded approval to an apportionment; and
- Concurrence with the 90 calendar day time limit on fund release; and
- Acknowledgement that failure to submit a valid, original signature Form SAB 50-05, and that it be in the physical possession of the OPSC, within the 90 calendar day time limit will result in the rescission of the Apportionment without further Board action; and
- Acknowledgement that by participating in the priority funding round, the district is waiving its right to a standard 18 month timeline for fund release submittal.

The proposed amendments address the process of funding SFP projects with funds made available from unexpected cash proceeds from sources other than bond funds outside of the Priority Funding Process. The SAB can waive the 30-calendar day filing provision at a public meeting for those school districts that wish to receive available funding sooner rather than waiting for a future sale of General Obligation Bond funds. The proposed amendments do not supersede the Priority Funding Process; rather, the amendments only address those instances when unexpected funding is made available to fund projects under the SFP.

### SUBMISSION OF COMMENTS

Government Code Section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the OAL, the adopting agency provide a Notice of the Proposed Emergency Action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed regulations to the OAL, the OAL shall allow interested persons five calendar days to submit comments on the proposed regulations as set forth in Government Code Section 11349.6.

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, email or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, email or fax must be received at the OAL within five days after the SAB submits the regulations to the OAL for review.

Please reference submitted comments as regarding "Emergency Regulations to Allocate Monies Appropriated From General Fund," addressed to:

Reference Attorney

Mailing Address: Office of Administrative Law  
300 Capitol Mall, Suite 1250  
Sacramento, CA 95814

E-mail Address: [staff@oal.ca.gov](mailto:staff@oal.ca.gov)

Fax No.: (916) 323-6826

For the status of the SAB submittal to the OAL for review, and the end of the five-day written submittal period, please consult the website of 1) the OAL at [www.oal.ca.gov](http://www.oal.ca.gov) under the heading "Emergency Regulations," and 2) OPSC at: <https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations>, then scroll down to School Facility Program "Pending Regulatory Changes."

Pursuant to Title I, Section 55, please send a copy of written comments regarding the proposed regulatory action, as well as requests for a copy of the proposed regulatory action, and questions concerning the substance of the proposed regulatory action, addressed to:

Lisa Jones, Regulations Coordinator

Mailing Address: Office of Public School Construction  
707 Third Street, 6<sup>th</sup> Floor  
West Sacramento, CA 95605

E-mail Address: [lisa.jones@dgs.ca.gov](mailto:lisa.jones@dgs.ca.gov)

Fax No.: (916) 375-6721

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Emergency Regulatory Action may be directed to Ms. Lisa Jones at (916) 376-1753. If Ms. Jones is unavailable, these questions may be directed to the backup contact person, Mr. Michael Watanabe, Chief of Administrative Services, at (916) 376-1646.